

SB2280



95TH GENERAL ASSEMBLY

State of Illinois

2007 and 2008

SB2280

Introduced 2/14/2008, by Sen. John J. Cullerton

SYNOPSIS AS INTRODUCED:

430 ILCS 65/1.1	from Ch. 38, par. 83-1.1
430 ILCS 65/3	from Ch. 38, par. 83-3
430 ILCS 65/3.1	from Ch. 38, par. 83-3.1

Amends the Firearm Owners Identification Card Act. Provides that the requirements of sales of firearms at a gun show apply to private sales or transfers of handguns by persons who are not federally licensed firearm dealers. Exempts transfers between spouses, a parent and child, or a grandparent and grandchild. Also exempts transfers by persons acting pursuant to operation of law or a court order.

LRB095 15182 RLC 41162 b

FISCAL NOTE ACT
MAY APPLY

A BILL FOR

1 AN ACT concerning firearms.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Firearm Owners Identification Card Act is
5 amended by changing Sections 1.1, 3, and 3.1 as follows:

6 (430 ILCS 65/1.1) (from Ch. 38, par. 83-1.1)

7 (Text of Section after amendment by P.A. 95-581)

8 Sec. 1.1. For purposes of this Act:

9 "Has been adjudicated as a mental defective" means the
10 person is the subject of a determination by a court, board,
11 commission or other lawful authority that a person, as a result
12 of marked subnormal intelligence, or mental illness, mental
13 impairment, incompetency, condition, or disease:

14 (1) is a danger to himself, herself, or to others;

15 (2) lacks the mental capacity to manage his or her own
16 affairs;

17 (3) is not guilty in a criminal case by reason of
18 insanity, mental disease or defect;

19 (4) is incompetent to stand trial in a criminal case;

20 (5) is not guilty by reason of lack of mental
21 responsibility pursuant to Articles 50a and 72b of the
22 Uniform Code of Military Justice, 10 U.S.C. 850a, 876b.

23 "Counterfeit" means to copy or imitate, without legal

1 authority, with intent to deceive.

2 "Federally licensed firearm dealer" means a person who is
3 licensed as a federal firearms dealer under Section 923 of the
4 federal Gun Control Act of 1968 (18 U.S.C. 923).

5 "Firearm" means any device, by whatever name known, which
6 is designed to expel a projectile or projectiles by the action
7 of an explosion, expansion of gas or escape of gas; excluding,
8 however:

9 (1) any pneumatic gun, spring gun, paint ball gun or
10 B-B gun which either expels a single globular projectile
11 not exceeding .18 inch in diameter and which has a maximum
12 muzzle velocity of less than 700 feet per second or
13 breakable paint balls containing washable marking colors;

14 (2) any device used exclusively for signalling or
15 safety and required or recommended by the United States
16 Coast Guard or the Interstate Commerce Commission;

17 (3) any device used exclusively for the firing of stud
18 cartridges, explosive rivets or similar industrial
19 ammunition; and

20 (4) an antique firearm (other than a machine-gun)
21 which, although designed as a weapon, the Department of
22 State Police finds by reason of the date of its
23 manufacture, value, design, and other characteristics is
24 primarily a collector's item and is not likely to be used
25 as a weapon.

26 "Firearm ammunition" means any self-contained cartridge or

1 shotgun shell, by whatever name known, which is designed to be
2 used or adaptable to use in a firearm; excluding, however:

3 (1) any ammunition exclusively designed for use with a
4 device used exclusively for signalling or safety and
5 required or recommended by the United States Coast Guard or
6 the Interstate Commerce Commission; and

7 (2) any ammunition designed exclusively for use with a
8 stud or rivet driver or other similar industrial
9 ammunition.

10 "Gun show" means an event or function:

11 (1) at which the sale and transfer of firearms is the
12 regular and normal course of business and where 50 or more
13 firearms are displayed, offered, or exhibited for sale,
14 transfer, or exchange; or

15 (2) at which not less than 10 gun show vendors display,
16 offer, or exhibit for sale, sell, transfer, or exchange
17 firearms.

18 "Gun show" includes the entire premises provided for an
19 event or function, including parking areas for the event or
20 function, that is sponsored to facilitate the purchase, sale,
21 transfer, or exchange of firearms as described in this Section.

22 "Gun show" does not include training or safety classes,
23 competitive shooting events, such as rifle, shotgun, or handgun
24 matches, trap, skeet, or sporting clays shoots, dinners,
25 banquets, raffles, or any other event where the sale or
26 transfer of firearms is not the primary course of business.

1 "Gun show promoter" means a person who organizes or
2 operates a gun show.

3 "Gun show vendor" means a person who exhibits, sells,
4 offers for sale, transfers, or exchanges any firearms at a gun
5 show, regardless of whether the person arranges with a gun show
6 promoter for a fixed location from which to exhibit, sell,
7 offer for sale, transfer, or exchange any firearm.

8 "Handgun" has the meaning ascribed to it in clause (h) (2)
9 of subsection (A) of Section 24-3 of the Criminal Code of 1961.

10 "Private sale or transfer of a handgun" means the sale or
11 transfer of a handgun or handguns by or among 2 or more persons
12 who are not federally licensed firearm dealers.

13 "Private seller" means a person who is not a federally
14 licensed firearm dealer.

15 "Sanctioned competitive shooting event" means a shooting
16 contest officially recognized by a national or state shooting
17 sport association, and includes any sight-in or practice
18 conducted in conjunction with the event.

19 "Stun gun or taser" has the meaning ascribed to it in
20 Section 24-1 of the Criminal Code of 1961.

21 (Source: P.A. 94-6, eff. 1-1-06; 94-353, eff. 7-29-05; 95-331,
22 eff. 8-21-07; 95-581, eff. 6-1-08.)

23 (430 ILCS 65/3) (from Ch. 38, par. 83-3)

24 Sec. 3. (a) Except as provided in Section 3a, no person may
25 knowingly transfer, or cause to be transferred, any firearm,

1 firearm ammunition, stun gun, or taser to any person within
2 this State unless the transferee with whom he deals displays a
3 currently valid Firearm Owner's Identification Card which has
4 previously been issued in his name by the Department of State
5 Police under the provisions of this Act. In addition, all
6 firearm, stun gun, and taser transfers by federally licensed
7 firearm dealers are subject to Section 3.1.

8 (a-5) Any person who is not a federally licensed firearm
9 dealer and who desires to transfer or sell a firearm while that
10 person is on the grounds of a gun show or with respect to a
11 private sale or transfer of a handgun or handguns at a private
12 sale or transfer must, before selling or transferring the
13 firearm, request the Department of State Police to conduct a
14 background check on the prospective recipient of the firearm in
15 accordance with Section 3.1.

16 (b) Any person within this State who transfers or causes to
17 be transferred any firearm, stun gun, or taser shall keep a
18 record of such transfer for a period of 10 years from the date
19 of transfer. Such record shall contain the date of the
20 transfer; the description, serial number or other information
21 identifying the firearm, stun gun, or taser if no serial number
22 is available; and, if the transfer was completed within this
23 State, the transferee's Firearm Owner's Identification Card
24 number. On or after January 1, 2006, the record shall contain
25 the date of application for transfer of the firearm. On demand
26 of a peace officer such transferor shall produce for inspection

1 such record of transfer. If the transfer or sale took place at
2 a gun show or private sale or transfer, the record shall
3 include the unique identification number. Failure to record the
4 unique identification number is a petty offense.

5 (b-5) Any resident may purchase ammunition from a person
6 outside of Illinois. Any resident purchasing ammunition
7 outside the State of Illinois must provide the seller with a
8 copy of his or her valid Firearm Owner's Identification Card
9 and either his or her Illinois driver's license or Illinois
10 State Identification Card prior to the shipment of the
11 ammunition. The ammunition may be shipped only to an address on
12 either of those 2 documents.

13 (c) The provisions of this Section regarding the transfer
14 of firearm ammunition shall not apply to those persons
15 specified in paragraph (b) of Section 2 of this Act.

16 (d) The provisions of this Section regarding the private
17 sale or transfer of a handgun or handguns does not apply to:

18 (1) Transfers between spouses, a parent and child, or a
19 grandparent and grandchild.

20 (2) Transfers by persons acting pursuant to operation
21 of law or a court order.

22 (Source: P.A. 94-6, eff. 1-1-06; 94-284, eff. 7-21-05; 94-353,
23 eff. 7-29-05; 94-571, eff. 8-12-05; 95-331, eff. 8-21-07.)

24 (430 ILCS 65/3.1) (from Ch. 38, par. 83-3.1)

25 (Text of Section after amendment by P.A. 95-564)

1 Sec. 3.1. Dial up system.

2 (a) The Department of State Police shall provide a dial up
3 telephone system or utilize other existing technology which
4 shall be used by any federally licensed firearm dealer, gun
5 show promoter, ~~or~~ gun show vendor, or with respect to a private
6 sale or transfer of a handgun or handguns, private seller who
7 is to transfer a firearm, stun gun, or taser under the
8 provisions of this Act. The Department of State Police may
9 utilize existing technology which allows the caller to be
10 charged a fee not to exceed \$2. Fees collected by the
11 Department of State Police shall be deposited in the State
12 Police Services Fund and used to provide the service.

13 (b) Upon receiving a request from a federally licensed
14 firearm dealer, gun show promoter, ~~or~~ gun show vendor, or
15 private seller, the Department of State Police shall
16 immediately approve, or within the time period established by
17 Section 24-3 of the Criminal Code of 1961 regarding the
18 delivery of firearms, stun guns, and tasers notify the
19 inquiring dealer, gun show promoter, ~~or~~ gun show vendor, or
20 private seller of any objection that would disqualify the
21 transferee from acquiring or possessing a firearm, stun gun, or
22 taser. In conducting the inquiry, the Department of State
23 Police shall initiate and complete an automated search of its
24 criminal history record information files and those of the
25 Federal Bureau of Investigation, including the National
26 Instant Criminal Background Check System, and of the files of

1 the Department of Human Services relating to mental health and
2 developmental disabilities to obtain any felony conviction or
3 patient hospitalization information which would disqualify a
4 person from obtaining or require revocation of a currently
5 valid Firearm Owner's Identification Card.

6 (c) If receipt of a firearm would not violate Section 24-3
7 of the Criminal Code of 1961, federal law, or this Act the
8 Department of State Police shall:

9 (1) assign a unique identification number to the
10 transfer; and

11 (2) provide the licensee, gun show promoter, ~~or~~ gun
12 show vendor, or private seller with the number.

13 (d) Approvals issued by the Department of State Police for
14 the purchase of a firearm are valid for 30 days from the date
15 of issue.

16 (e) (1) The Department of State Police must act as the
17 Illinois Point of Contact for the National Instant Criminal
18 Background Check System.

19 (2) The Department of State Police and the Department of
20 Human Services shall, in accordance with State and federal law
21 regarding confidentiality, enter into a memorandum of
22 understanding with the Federal Bureau of Investigation for the
23 purpose of implementing the National Instant Criminal
24 Background Check System in the State. The Department of State
25 Police shall report the name, date of birth, and physical
26 description of any person prohibited from possessing a firearm

1 pursuant to the Firearm Owners Identification Card Act or 18
2 U.S.C. 922(g) and (n) to the National Instant Criminal
3 Background Check System Index, Denied Persons Files.

4 (e-5) The provisions of this Section regarding the private
5 sale or transfer of a handgun or handguns do not apply to:

6 (1) Transfers between spouses, a parent and child, or a
7 grandparent and grandchild.

8 (2) Transfers by persons acting pursuant to operation
9 of law or a court order.

10 (f) The Department of State Police shall promulgate rules
11 not inconsistent with this Section to implement this system.

12 (Source: P.A. 94-6, eff. 1-1-06; 94-353, eff. 7-29-05; 95-331,
13 eff. 8-21-07; 95-564, eff. 6-1-08.)